

ORDINANCE NO. 206

AN ORDINANCE REGARDING THE REGULATION OF FOOD ESTABLISHMENTS INCLUDING FOOD SERVICE ESTABLISHMENTS, RETAIL FOOD STORES, MOBILE FOOD UNITS, AND ROADSIDE FOOD VENDORS WITHIN THE CITY OF TIOGA; REPEALING ORDINANCE NO. 183; AND PROVIDING FOR FEES AND PENALTIES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TIOGA, TEXAS

Section 1. Adoption of Texas Food Establishment Rules

A. The City of Tioga adopts by reference the provisions of the current rules or rules as Amended by the Texas Board of Health found in 25 Texas Administrative Code, Chapter 229, Sections 161 through 171 and 173 through 175 regarding the regulation of food establishments in this Jurisdiction.

B. Definitions

The words "authorized agent or employee" mean the employees of the regulatory authority.

The words "food establishment" mean a food service establishment, a retail food store, a mobile food unit, and/or a roadside food vendor.

The words "municipality of Tioga" in this ordinance shall be understood to refer to the City of Tioga.

The words "state rules" mean the state rules found at 25 Texas Administrative Code, Chapter 229, Sections 161 through 171 and Sections 173 through 175. These rules are also known as the Texas Food Establishment Rules.

The words "regulatory authority" mean the Grayson County Health Department.

Section 2. Permits and exemptions

A. A person may not operate a food establishment without a permit issued by the regulatory authority. Permits are not transferable from one person to another or from one location to another location, except as otherwise permitted by this ordinance. A valid permit must be posted in or on every food establishment regulated by this ordinance.

B. A food establishment operated solely by a nonprofit organization is exempt from the permitting requirements of this ordinance, but is not exempt from compliance with state rules. The regulatory authority may require any information necessary to determine whether an organization is nonprofit for purposes of this exemption.

Section 3. Application for Permit and Fees

A. Any person desiring to operate a food establishment must make a written application for a permit on forms provided by the regulatory authority. The application must contain the name and address of each applicant, the location, and type of the proposed food establishment and the applicable fee. An incomplete application will not be accepted. Failure to provide all required information or falsifying information required may result in denial or revocation of the permit. Renewals of permits are required on an annual basis and the same information if required for a renewal permit as for an initial permit.

B. Prior to the approval of an initial permit or the renewal of an existing permit, the regulatory authority shall inspect the proposed food establishment to determine compliance with state laws and rules. A food establishment that does not comply with state laws and rules will be denied a permit or the renewal of a permit.

C. The following fee schedule applies to permits issued under this ordinance:

- (a) Permit fees under this Article are as follows: Each food service establishment, retail food store, mobile food vending unit, or roadside food vendor operating within the City of Tioga shall pay a fee based on the number of employees employed by the facility. The following table shall be used to determine the permit fee.

For the year 2002:

No. of Employees:	0-5	6-15	16 or more
Permit Fees:	\$125.00	\$200.00	\$225.00

Beginning in 2003:

No. of Employees:	0-5	6-15	16 or more
Permit Fees:	\$150.00	\$250.00	\$300.00

All mobile food concessions, either food service or retail sales will pay permit fees according to the table unless classified as temporary. Each temporary food service establishment or temporary retail food sales operation shall pay \$25.00 per period of operation (said permit shall not exceed four days).

- (b) The following fees shall be charged for Plan Review as required by this section: \$100.00 for new structures and extensive remodeling of existing facilities, that renew or replace plumbing, electrical kitchen equipment or change the existing structure.

- (c) The following fees shall be charged for Food Handler and Food Manager permits:

Food Handler Permit	\$15.00 for a 3-year permit
Food Manager Permit	\$25.00 for a 3 year permit

- (d) The following fees shall be charged for Late surcharge and reopening fee for food establishments:

Late Surcharge	\$50.00 late fee
Reopening fee	50% of permit fee

- (e) All permit fees shall be paid to the Regulatory Authority.

#### Section 4. Review of Plans

- A. Whenever a food establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food establishment, properly prepared plans and specifications for such construction, remodeling or conversion shall be submitted to the regulatory authority for review before work is begun. Extensive remodeling means that 20% or greater of the area of the food establishment is to be remodeled. The plans and specifications shall indicate the proposed layout, equipment arrangement, mechanical plans



and construction of materials of work areas, and the type and model of proposed fixed equipment and facilities. The regulatory authority will approve the plans and specifications if they meet the requirements of the rules adopted by this ordinance. The approved plans and specifications must be followed in construction, remodeling or conversion.

- B. Failure to follow the approved plans and specifications will result in a permit denial, suspension, or revocation.

#### Section 5. Food Sanitation Training

- A. No person shall operate a food service establishment, retail store with meat market or deli, or mobile food unit unless the manager of the establishment, or if multiple shifts are worked, the manager of each shift has a valid current Food Service Manager's Certificate issued by the Regulatory Authority certifying that the bearer has attended the Food Sanitation Program for Managers approved by the Regulatory Authority within the past three years.
- B. It shall be unlawful for the owner, operator, or manager of any food service establishment, retail store with meat market or deli, or mobile food vending units, to employ or permit any food handler to work therein unless such food handler has the permit required by this section.

#### Section 6. Suspension of Permit

- A. The regulatory authority may, without warning, notice, or hearing suspend any permit to operate a food establishment if the operation of the food establishment constitutes and imminent hazard to public health. Suspension is effective upon service of the notice required by Paragraph (5)(B) of this ordinance. When a permit is suspended, food operations shall immediately cease. Whenever a permit is suspended, the holder of the permit shall be afforded an opportunity for a hearing within 20 days of receipt of a request for a hearing.
- B. Whenever a permit is suspended, the holder of the permit or the person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for the hearing is filed with the regulatory authority by the holder of the permit within ten days. If no written request for hearing is filed within ten days, the suspension is sustained. The regulatory authority may end the suspension at any time if reasons for suspension are sustained. The regulatory authority may end the suspension at any time if reasons for suspension no longer exist.

#### Section 7. Revocation of permit

- A. The regulatory authority may, after providing opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of these rules or for interference with the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority shall notify the holder of the permit or the person in charge, in writing, of the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of the ten days following service of such notice unless a written request for a hearing the end of the ten days following service of such notice unless a written request for a hearing is filed with the regulatory authority by the holder of the permit within such ten day period.

- B. If no request for hearing is filed within the ten-day period, the revocation of the permit becomes final.

#### Section 8. Administrative Process

- A. A notice as required in these rules is properly served when it is delivered to the holder of the permit or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit. A copy of the notice shall be filed in the records of the regulatory authority.
- B. The hearings provided for in these rules shall be conducted by the regulatory authority at a time and place designated by it. Based upon the recorded evidence of such hearing, the regulatory authority shall make final findings, and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit by the regulatory authority.

#### Section 9. Remedies

- A. Any person who violates a provision of these rules and any person who is the permit holder of or otherwise operates a food service establishment that does not comply with the requirements of these rules and any responsible to officer of that permit holder or those persons shall be fined not more than \$2,000.00 dollars for each offense. Each day on which a violation occurs constitutes a separate offense.
- B. The regulatory authority may seek to enjoin violations of these rules.

#### Section 9. Severability

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

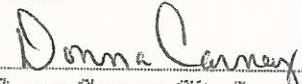
#### Section 10. Effective Date

The provisions of this ordinance shall be in full force and effect upon passage.

INTRODUCED, READ AND PASSED BY AN AFFIRMATIVE VOTE BY THE CITY COUNCIL ON THIS 11<sup>th</sup> DAY OF MARCH, 2002.

  
Stanley Kemp, Mayor

Attest:

  
Donna Carney, City Secretary